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10 **BEFORE THE**
11 **DIVISION OF MEDICAL QUALITY**
12 **MEDICAL BOARD OF CALIFORNIA**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
14 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation and Petition to
14 Vacate Section 822 Suspension Order Against:

15 KATHERINE ANN PETERS, M.D.
1811 East Grand Avenue, #154
16 Escondido, CA 92027

17 Physician's and Surgeon's
Certificate No. G67313

18
19 Respondent.

Case No. 10-2001-123947

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

20 FINDINGS OF FACT

- 21 1. On or about August 3, 2006, Complainant David T. Thornton, in his
22 official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs, filed Accusation and Petition to Vacate Section 822 Suspension Order No.
24 10-2001-123947 against Katherine Ann Peters, M.D. (Respondent) before the Division of
25 Medical Quality.
- 26 2. On or about October 16, 1989, the Medical Board of California (Division)
27 issued Physician's and Surgeon's Certificate No. G67313 to Respondent. The Physician's and
28 Surgeon's Certificate expired on February 28, 2003, and has not been renewed.

1 3. On or about August 3, 2006, Brenda Allen, an employee of the
2 Complainant Agency, served Respondent by Certified and First Class Mail with a true and
3 correct copy of the Accusation and Petition to Vacate Section 822 Suspension Order No.
4 10-2001-123947, Statement to Respondent, Notice of Defense, Request for Discovery, and
5 Government Code sections 11507.5, 11507.6, and 11507.7 at his address of record with the
6 Division, which was and is 1811 East Grand Avenue, #154, Escondido, CA 92027. A copy of
7 the Accusation and Petition to Vacate Section 822 Suspension Order, accompanying documents,
8 and Declaration of Service are attached as Exhibit A and are incorporated by reference as if fully
9 set forth herein.

10 4. Service of the Accusation and Petition to Vacate Section 822 Suspension
11 Order was effective as a matter of law under the provisions of Government Code section 11505,
12 subdivision (c).

13 5. On or about August 11, 2006, the aforementioned documents sent by
14 certified mail to the East Grand Avenue were returned by the U.S. Postal Service marked
15 "Undeliverable as Addressed." The documents served by regular mail were not returned. A copy
16 of the postal returned documents are attached hereto as Exhibit B and are incorporated by
17 reference as if fully set forth herein.

18 6. On or about August 18, 2006, the Board served the above-mentioned
19 documents (paragraph 3) by certified mail and regular mail to Respondent at 1023 Chestnut,
20 Escondido, CA 92025, an address provided by the Department of Motor Vehicles. A copy of the
21 Accusation and Petition to Vacate Section 822 Suspension Order, accompanying documents, and
22 Declaration of Service are attached as Exhibit C and are incorporated by reference as if fully set
23 forth herein.

24 7. On or about November 13, 2006, the aforementioned documents sent by
25 certified mail to the Chestnut address were returned by the U.S. Postal Service marked
26 "Unclaimed". The documents served by regular mail were not returned. A copy of the postal
27 return documents are attached hereto as Exhibit D and are incorporated by reference as if fully
28 set forth herein.

1 8. Business and Professions Code section 118 states, in pertinent part:

2 "(b) The suspension, expiration, or forfeiture by operation of law of a license
3 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the
4 board or by order of a court of law, or its surrender without the written consent of the board, shall
5 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the
6 board of its authority to institute or continue a disciplinary proceeding against the licensee upon
7 any ground provided by law or to enter an order suspending or revoking the license or otherwise
8 taking disciplinary action against the license on any such ground."

9 9. Government Code section 11506 states, in pertinent part, that:

10 "(a) Within 15 days after service of the accusation the respondent may
11 file with the agency a notice of defense in which the respondent may:

12 "(1) Request a hearing.

13 "...

14 "(c) The respondent shall be entitled to a hearing on the merits if the
15 respondent files a notice of defense, and the notice shall be deemed a specific
16 denial of all parts of the accusation not expressly admitted. Failure to file a notice
17 of defense shall constitute a waiver of respondent's right to a hearing, but the
18 agency in its discretion may nevertheless grant a hearing."

19 10. Respondent failed to file a Notice of Defense within 15 days after service
20 upon her of the Accusation and Petition to Vacate Section 822 Suspension Order, and therefore
21 waived her right to a hearing on the merits of Accusation and Petition to Vacate Section 822
22 Suspension Order No. 10-2001-123947.

23 11. California Government Code section 11520 states, in pertinent part:

24 "(a) If the respondent either fails to file a notice of defense or to appear at the
25 hearing, the agency may take action based upon the respondent's express admissions or
26 upon other evidence and affidavits may be used as evidence without any notice to
27 respondent."

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12. Pursuant to its authority under Government Code section 11520, the Division finds Respondent is in default. The Division will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A, B, C. and D, finds that the allegations in Accusation and Petition to Vacate Section 822 Suspension Order No. 10-2001-123947 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Katherine Ann Peters, M.D. has subjected her Physician's and Surgeon's Certificate No. G67313 to discipline.

2. A copy of the Accusation and Petition to Vacate Section 822 Suspension Order and the related documents and Declarations of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Division of Medical Quality is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the following violations alleged in the Accusation and Petition to Vacate Section 822 Suspension Order:

a. Business and Professions Code section 2236 [conviction of a crime];

b. Business and Professions Code section 2239 [excessive use of alcohol];

c. Business and Professions Code section 2234(e) [acts of dishonesty]; AND

d. Business and Professions Code section 2234 [general unprofessional conduct];

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1 ORDER

2 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G67313,
3 heretofore issued to Respondent Katherine Ann Peters, M.D., is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may
5 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
6 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
7 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
8 statute.

9 This Decision shall become effective on February 26, 2007.

10 It is so ORDERED January 26, 2007

11 
12 FOR THE DIVISION OF MEDICAL QUALITY
13 MEDICAL BOARD OF CALIFORNIA
14 DEPARTMENT OF CONSUMER AFFAIRS
15 Barbara Yaroslavsky, Panel B Chair

16 80102920.wpd

17 DOJ docket number:SD2005701582

18 Attachments:

- 19 Exhibit A: Accusation and Petition to Vacate Section 822 Suspension Order in Case
20 No.10-2001-123947, Related Documents, and Declaration of Service (certified
mail sent to East Grand Ave address)
21 Exhibit B: Postal Return Documents
22 Exhibit C: Accusation and Petition to Vacate Section 822 Suspension Order in Case No. 10-
2001-123947 (certified mail to Chestnut address)
23 Exhibit D: Postal Return Documents

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10 **BEFORE THE**
11 **DIVISION OF MEDICAL QUALITY**
12 **MEDICAL BOARD OF CALIFORNIA**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
14 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation and
15 Petition to Vacate Section 822 Suspension Order
Against:

16 **KATHERINE ANN PETERS, M.D.**
17 1811 East Grand Avenue, #154
Escondido, CA 92027

18 Physician's and Surgeon's
19 Certificate No. G 67313

20 Respondent

Case No. 10-2001-123947

**ACCUSATION AND
PETITION TO VACATE
SECTION 822 SUSPENSION
ORDER**

21 PARTIES

22 1. David T. Thornton (Complainant) brings this Accusation and Petition to
23 Vacate Section 822 Suspension Order solely in his official capacity as the Executive Director of
24 the Medical Board of California.

25 2. On or about October 16, 1989, the Medical Board of California issued
26 Physician's and Surgeon's Certificate No. G 67313 to Katherine Ann Peters, M.D.
27 ("Respondent"). On or about October 16, 2001, the Division of Medical Quality,
28 Medical Board of California, Department of Consumer Affairs ("Division") filed Accusation

No. 10-2001-123947 against respondent. On or about October 19, 2001, an interim suspension order (ISO) was issued suspending respondent from the practice of medicine. On or about June 6, 2002, respondent signed a Stipulated Settlement for Section 822 Order of Suspension and Conditions of Reinstatement ("Stipulated Settlement"). In its Decision effective October 28, 2002, the Division adopted the stipulated settlement suspending respondent's certificate and imposed conditions for reinstatement. Respondent's physician's and surgeon's certificate is delinquent and expired on February 28, 2003.

JURISDICTION

3. This Accusation and Petition to Vacate Section 822 Suspension Order is brought before the Division under the authority of the following sections of the Business and Professions Code ("Code") and the prior Decision of the Division in Case No. 10-2001-123947 which became effective on October 28, 2002.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division deems proper.

5. Section 2234 of the Code provides that the Division of Medical Quality shall take action against a licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, Medical Practice Act].

"(b) Gross negligence.

"(c) Repeated negligent acts. . . .

"(d) Incompetence.

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1 "(e) The commission of any act involving dishonesty or corruption
2 which is substantially related to the qualifications, functions, or duties of a physician and
3 surgeon.

4 "(f) Any action or conduct which would have warranted denial of a
5 certificate.

6 ". . . ."

7 6. Unprofessional conduct under Code section 2234 is conduct which
8 breaches the rules or ethical code of the medical profession, or conduct unbecoming a member in
9 good standing of the medical profession, and which demonstrates an unfitness to practice
10 medicine.^{1/}

11 7. Code section 2236 provides, in pertinent part: "The conviction of an
12 offense substantially related to the qualifications, functions, or duties of the physician and
13 surgeon constitutes unprofessional conduct within the meaning of this chapter. The
14 record of conviction shall be conclusive evidence only of the fact the conviction
15 occurred."

16 8. Section 2239 of the Code provides, in pertinent part: "The use or
17 prescribing for or administering to himself or herself, of any controlled substances; or the
18 use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverage, to
19 the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any
20 other person or to the public, or to the extent such use impairs the ability of the licensee
21 to practice medicine safely or more than one misdemeanor or any felony involving the
22 use, consumption, or self-administration of any of the substances referenced in this
23 section, or any combination thereof, constitutes unprofessional conduct. The record of
24 conviction is conclusive evidence of such unprofessional conduct."

25 9. Section 118(b) of the Code provides: "The suspension, expiration, or
26 forfeiture by operation of law of a license issued by a board in the department, or its
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28 1. *Shea v. Board of Medical Quality Assurance* (1978) 81 Cal.App.3d 564, 575.

1 suspension, forfeiture, or cancellation by order of the board or by order of a court of law,
2 or its surrender without the written consent of the board, shall not, during any period in
3 which it may be renewed, restored, reissued or reinstated, deprive the board of the
4 authority to institute or continue a disciplinary proceeding against the licensee upon any
5 ground provided by law or to enter an order suspending or revoking the license or
6 otherwise taking disciplinary action against the licensee on any such ground."

7 10. This Accusation and Petition to Vacate Section 822 Suspension Order is
8 made in reference to the Board's Decision in Case No. 10-2001-123947 effective October 28,
9 2002, by which respondent's physician's and surgeon's certificate was suspended and terms for
10 reinstatement of the suspended certificate were imposed. The terms pertinent to this Accusation
11 and Petition to Vacate the 822 Suspension Order are as follows:

12 **"IT IS HEREBY ORDERED** that, pursuant to Section 822 of the
13 Business and Professions Code, Physician's and Surgeon's Certificate No.
14 G 67313, issued to Respondent Katrine Peters, M.D. is suspended upon the
15 effective date of this Decision and shall remain suspended until either the
16 Division determines that it has received competent evidence of the absence or
17 control of her self use of and administration of controlled substances/dangerous
18 drugs and/or alcohol, including her mental and physical illness that impairs her
19 ability to practice medicine safely, and until it is satisfied that, with due regard for
20 the public health and safety, respondent's right to practice medicine should be
21 reinstated. Should Respondent fail to successfully complete the Medical Board's
22 Diversion Program within three years from the effective date of this order, the
23 Division may issue a further Order vacating the Suspension Order and entering a
24 new Order revoking her license."

25 **CAUSE FOR VACATING THE SECTION 822 SUSPENSION ORDER**

26 11. The Section 822 Suspension Order imposed on respondent Katherine Ann
27 Peters, M.D., is subject to vacating in that respondent failed to successfully complete the Medical
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1 Board's Diversion Program within three years from the effective date of the Division's Decision
2 in Case No. 10-2001-123947. The circumstances are as follows:

3 On or about September 13, 2005, respondent contacted the Medical Board's
4 Diversion Program ("Diversion Program") and requested enrollment and participation in the
5 Diversion Program. Thereafter, the Diversion Program attempted on several occasions, to
6 contact respondent to process her application for enrollment. Respondent was unresponsive.
7 Respondent failed to complete her application for enrollment into the Diversion Program and
8 failed to successfully complete the Diversion Program within three years of the effective date of
9 the Division's Decision in Case No. 10-2001-123947.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Conviction of Crimes Substantially Related to the Practice of Medicine)

12 12. Respondent has subjected her Physician's and Surgeon's Certificate to
13 disciplinary action under section 2236 of the Code in that she was convicted of crimes related
14 the qualifications, functions or duties of the physician and surgeon. The circumstances are as
15 follows:

16 A. On or about May 29, 2003, in the Superior Court of California, County of
17 San Diego, North County Division, in the case of *People v. Katherine A. Peters*, Case No.
18 CN159371, respondent was convicted on her guilty plea of one count of driving a vehicle
19 while under the influence of alcohol in violation of Vehicle Code section 23152(A). As a
20 consequence of the conviction, respondent was sentenced to three years summary
21 probation with conditions including completing drug abuse educational programs and
22 paying a fine. The circumstances of the conviction are as follows: On or about March 6,
23 2003, respondent was engaged in a "hit and run" accident at 950 W. Mission Avenue in
24 San Diego. When contacted by the police, respondent smelled of alcohol. She failed the
25 field sobriety tests and her BAC was recorded at .11 and .12.

26 B. On or about May 29, 2003, in the Superior Court of California, County of
27 San Diego, North County Division, in the case of *People v. Katherine A. Peters*, Case No.
28 CN160709, respondent was convicted on her guilty plea of one count of petty theft in

1 violation of Penal Code section 484. As a consequence of the conviction, respondent was
2 sentenced to three years summary probation with conditions including an order
3 forbidding her from ever entering the Home Depot Store in Escondido. The
4 circumstances of the conviction are as follows: On or about April 6, 2003, respondent
5 entered into the Home Depot store located at 1475 E. Valley Way, Escondido, and
6 shoplifted seven "switch plates." When contacted by the police, respondent admitted she
7 stole the items because she had no money to pay for them.

8 C. On or about May 12, 2004, in the Superior Court of California, County of
9 San Diego, North County Division, in the case of *People v. Katherine A. Peters*, Case No.
10 CN177843, respondent was convicted on her guilty plea of one count of petty theft with a
11 prior in violation of Penal Code sections 484 and 666. As a consequence of the
12 conviction, respondent was sentenced to 15 days in custody, three years summary
13 probation with conditions including payment of a fine. The circumstances of the
14 conviction are as follows: On or about May 2, 2004, respondent entered into Susie's
15 Store located at 1319 Valley Parkway, in Escondido, and shoplifted several clothing
16 items. When contacted by the police, respondent admitted she stole the clothes because
17 she had no money to pay for them.

18 D. On or about November 2, 2004, in the Superior Court of California,
19 County of San Diego, North County Division, in the case of *People v. Katherine A.*
20 *Peters*, Case No. CN184088, respondent was convicted on her guilty plea of one count of
21 battery on a peace officer in violation of Penal Code section 243(b). As a consequence of
22 the conviction, respondent was sentenced to two days in custody and three years summary
23 probation with conditions including payment of a fine and completing anger management
24 course. The circumstances of the conviction are as follows: On or about August 17,
25 2004, respondent telephoned the San Diego Police Department to report she had been
26 raped by five police officers. Two police officers were dispatched to investigate the
27 alleged rape. Upon arrival at the apartment, respondent told the police officers she was
28 raped by five officers from the Escondido Police Department. Respondent smelled of

1 alcohol and appeared drunk. Respondent exposed her breast to the officers and told the
2 officers she was going to sue the police department. Despite several attempts, respondent
3 was unable to tell the officers how she was raped. When the officers insisted that
4 respondent tell them how the rape occurred, respondent asked the officers to leave. As
5 the officers were leaving, respondent followed them yelling at them. The officers decided
6 to arrest respondent for being drunk in public. Respondent bit one of the officers as she
7 was being arrested.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Excessive Use of Alcohol)

10 13. Respondent has further subjected her Physician's and Surgeon's
11 Certificate to disciplinary action under section 2239 of the Code in that she has used alcoholic
12 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
13 any other person, or to the public, as more particularly alleged in paragraph 12, above.

14 **THIRD CAUSE FOR DISCIPLINE**

15 (Acts of Dishonesty)

16 14. Respondent has further subjected her Physician's and Surgeon's
17 Certificate to disciplinary action for acts of dishonesty under section 2234(e) of the Code in that
18 she was convicted of the crimes of petty theft and petty theft with a prior in violation of Penal
19 Code section 484 and Penal Code sections 484 and 666, respectively, as more particularly alleged
20 in paragraph 12, above.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 (General Unprofessional Conduct)

23 15. Respondent has further subjected her Physician's and Surgeon's
24 Certificate to disciplinary action for general unprofessional conduct under section 2234 of the
25 Code in that she was convicted of the crimes of drunk driving, petty theft, petty theft with a prior,
26 and battery of a peace officer in violation of Vehicle Code section 23152(A), Penal Code section
27 484, Penal Code sections and 484 and 666 and Penal Code section 243(b), respectively, as more
28 particularly alleged in paragraph 12, above.

1 WHEREFORE, Complainant requests that a hearing be held on the matters herein
2 alleged, and that following the hearing, the Medical Board of California issue a decision:

3 1. Revoking Physician's and Surgeon's Certificate Number G 67313, issued
4 to KATHERINE ANN PETERS, M.D.;

5 2. Vacating the Section 822 Suspension Order in Case No. 10-2001-123947,
6 and imposing the penalty of revocation of respondent's Physician's and Surgeon's
7 Certificate No. G 67313; and

8 3. Taking such other and further action as the Medical Board of California
9 deems necessary and proper.

10 DATED: August 3, 2006

11 
12 DAVID T. THORNTON
13 Executive Director
14 Medical Board of California
15 Department of Consumer Affairs
16 State of California

17 Complainant

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19 SD2005701582
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